

REMARKS

Claims 1, 8-11, 13-18, 20-23, and 26-28 are pending, of which claim 1 is independent. Claims 1 and 26 have been amended. Claims 24 and 25 have been canceled. Claims 27 and 28 have been added.

Claim 18 was withdrawn in response to a restriction requirement, but in order to retain the right to rejoinder, Applicant amended claim 18 to depend from claim 1, thus requiring all the limitations of the elected invention (as directed by MPEP § 821.04).

Claims 1, 8-11, 13-17, and 20-26 stand rejected as follows. Claims 1, 9-11, 15-17, 21, 22, 24, and 25 stand rejected under 35 U.S.C. 102(b) as anticipated by Kern (U.S. 4,601,545). Claims 8, 13, 14, and 23 stand rejected under 35 U.S.C. 103(a) as unpatentable over Kern in view of Rizzo (U.S. 5,800,530). Claim 20 stands rejected under 35 U.S.C. 103(a) as unpatentable over Kern in view of Sandsted (U.S. 6,749,632). Claim 26 stands rejected under 35 U.S.C. 103(a) as unpatentable over Kern in view of Nelson (U.S. 7,127,299).

The present amendment, being filed with a Request for Continued Examination, is being submitted as a “submission” as set forth in 37 CFR § 1.114(c).

Claim 1

Applicant submits that Kern does not disclose or suggest at least “circuitry coupled to the memory element to enable the waveform data to be programmed by transmitting data over a wireless link” where “the waveform data is configured according to a selected a high-order aberration correction to modify the characteristic function of the optical element to reduce high-order aberration in the eye.”

Kern has no mention of circuitry coupled to any memory element to enable data to be programmed by transmitting data over a wireless link.

Even if the “instructions regarding distribution of voltage levels” (col. 3, lines 21-22) are interpreted as “waveform data,” those instructions do not “modify the characteristic function of the optical element to reduce high-order aberration in the eye.” Instead, Kern specifically describes that it is the electrode arrangements that achieve effects such as the “aspheric lens

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effect." While such an effect may provide a selected high-order aberration correction, the instructions are in no way configured according to that selected a high-order aberration correction.

Dependent claims

The remaining claims are all properly dependent on claim 1, and are thus allowable therewith. The dependent claims add one or more further limitations, which are not presently relied upon to establish patentability. For that reason, and not because Applicant agrees with the Examiner, no rebuttal is offered to the Examiner's reasons for rejecting the dependent claims.

\$60 for the Petition for Extension of Time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account Authorization. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 00633-041001.

Respectfully submitted,

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